

Investment Deduction – Frequently Asked Questions

Q1: Does the new capital investment deduction apply to taxpayers in tax increment finance districts?

A: **No. IC 6-1.1-12.4-4 provides that the property owner may not receive a deduction with respect to real or personal property located in an allocation area. Once an allocation area has been designated, this exclusion is triggered, even if no bonds have been sold.**

Q2: Is the investment deduction limited to manufacturing and research and development equipment?

A: **No. IC 6-1.1-12.4-3 provides that the deduction applies to all personal property except inventory. The definition of personal property contained in 50 IAC 4.2-5-1 is incorporated by reference. Personal property includes computers, fixtures and furniture and business equipment.**

Q3: How is the \$2M annual assessed value limitation for real estate and personal property determined?

A: **IC 6-1.1-12.4-2(c) limits the deduction a property owner may receive in a particular county to not greater than \$2M in assessed value annually. For purposes of this limitation, the \$2M is the maximum deduction that may be received by a single property owner in a county, regardless of the number of parcels of real estate owned by the property owner in that county. Stated differently, each parcel of real estate does not have its own \$2M limitation. Personal property has a separate \$2M assessed value limitation.**

Q4: Do improvements to real estate and purchases of personal property by farmers qualify?

A: **Yes—provided, however, that only improvements to real estate that results in an increase in assessed value and create or retain employment qualify. Purchases of agricultural land only do not qualify. Personal property other than inventory, as defined in 50 IAC 4.2-5-1, qualifies.**

Q5: Can a taxpayer receive both the traditional tax abatement and the capital investment deduction?

A: **No. IC 6-1.1-12.4-5 provides that a property that qualifies for the capital investment deduction may not receive a deduction under another provision of Indiana Code for that taxable year. Stated another way, the property owner has a choice, to pursue a traditional tax abatement (or other deduction) OR the capital investment deduction, but cannot receive both on the same property. However, property not receiving abatement but located on the same parcel as abatable property, may receive the investment deduction.**

Q6: Will the deduction be listed separately on the tax statement?

A: **Counties may choose to list the deduction separately on the tax statement sent to property owners—although there is no statutory requirement that they do so.**

Q7: Are any businesses excluded from receiving the capital investment deduction?

A: **Yes. IC 6-1.1-12.4-2(h) provides that the deduction does not apply to a facility listed in IC 6-1.1-12.1. Those facilities include golf courses, country and tennis clubs, massage parlors, racetracks, restaurants, automobile dealerships, other retail establishments, residential property and package liquor stores.**

Q8: What type of notice will the property owner file to claim the capital investment deduction for real estate?

A: **The property owner will file a RPID-1, a form that can be found at your local assessor's office or on the Department's website at: <http://www.in.gov/icpr/webfile/formsdiv/52504.pdf>.**

Q9: What type of notice will the property owner file to claim the capital investment deduction for personal property?

A: **The property owner will file a PPID-1 with their annual personal property return. The form that can be found at your local assessor's office or on the Department's website at: <http://www.in.gov/icpr/webfile/formsdiv/52502.pdf>.**

Q10: Does the capital investment deduction apply to apartment complexes?

A: **IC 6-1.1-12.4-2(h) provides that the deduction does not apply to residential property unless:**

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under IC 6-1.1-12.1-7; or

(C) the area is designated as a residentially distressed area.

Apartment complexes may qualify if they meet the qualifications described above; however, IC 6-1.1-12.4-5 provides that an owner that qualifies for the capital investment deduction may not receive a deduction under another provision of Indiana Code for that taxable year.

Q11: How will the retention or creation of employment be determined by the assessor? Will this information be placed on the form as a guide from year to year?

A: **Compliance with the retention or creation of employment is assumed to have occurred with the signature of the taxpayer below the certification on**

the application form. If a local official (township assessor, county assessor, or county auditor) feels this has not occurred, there is a provision for them to challenge this as outlined in the statute.

Q12: The issue of a (capital or operators) lease is not addressed in the rule or in the code. Will this be addressed?

A: Whoever files the return and is responsible for payment of the property taxes on the equipment is eligible to apply for the investment deduction.

Q13: Would a leasing company, which is responsible for payment of the property taxes, be eligible for the investment deduction even though the property is located at a country club?

A: The deduction under this section does not apply to personal property at a facility listed in IC 6-1.1-12.1-3(e). That means that for this deduction only (not exemptions), personal property located at one of the excluded facilities does not qualify. There is nothing in the code citation excepting leased property.

Q14: If a taxpayer is in a Real Estate only T.I.F. district, could they get the Personal Property Investment Deduction? Conversely, there is a T.I.F. district that is established solely for Personal Property. Could the taxpayer get the Real Property Investment Deduction?

A: Regardless of the purpose(s) the T.I.F. district was established, per IC 6-1.1-12.4 the property owner may not receive a deduction with respect to real or personal property located in an allocation area.

Q15: There seems to be a lot of confusion with the Investment Deduction for companies who provide a combination of service & retail. The Form PPID-1, Instruction 9 (k.) uses the phrase "primary purpose." If 51% of a company's income is derived from retail sales and 49% comes from the services rendered, would they be considered a retailer and not qualify?

A: "Other retail" is not defined in the code or regulations. The local officials should apply the same interpretation that they have used for abatements. If they have not made such an interpretation in the past, they need to use their best judgment and make a decision. The 50/50 test may be one appropriate way to view mixed industries.

Q16: If a taxpayer fails to claim his PPID deduction for 2006, will he be permitted to claim the equipment next year at the year 2 - 50% deduction level?

A: Yes

Q17: Does the true tax value of investment in year 2 follow the Form 103. Example: PPID for this year would be the cost x 40% x 75%, assuming the total assets are above the 30% floor. Next year would we calculate the year 2 at the cost x 56% x 50%?

A: Yes

Q18: Who is responsible for reporting the Investment Deduction amount from the PPID – the Township Assessor or the County Auditor?

A: Per IC 6-1.1-12.4-3 (e) & (f) – it is the Township Assessor's responsibility to identify and report to the County Auditor the Investment Deduction amount, as well as an Economic Revitalization abatement (Form 103-ERA) deduction. It is the County Auditor's responsibility to make the deductions. It is up to the local jurisdiction how they wish to handle the reporting of the investment deduction and/or the Economic Revitalization abatement amounts; however, the Township Assessor should report the pertinent information necessary for the tax duplicate, including the taxpayer name, parcel or identification number, property location, and the amount of the deduction(s). The amount(s) to be reported include: 1. the Gross Assessed Value; 2. the abatement amount (Form 103-ERA); 3. the PPID amount. The information can be transmitted either in an electronic format, such as an Excel spreadsheet, or manually.

Q19: Taxpayer A owns a tractor and uses it in Indiana. In 2006, he sells it to Taxpayer B. Taxpayer B has never before used the tractor in Indiana prior to the purchase. As long as Taxpayer B's purchase of the tractor creates or retains employment, would Taxpayer B be entitled to the deduction?

A: Per IC 6-1.1-12.4-3 (b), yes they would be entitled to the deduction.

Q20: Can a farmer put up grain bins and other outbuildings and receive this deduction?

A: If the new construction creates or retains jobs he can receive the deduction. (See Question #4)

Q21: Can a company set up two or three leasing companies so that each leasing company can have their own \$2 million limit? What about a corporation that sets up multiple subsidiaries?

A: The deduction will be processed based on Personal Property returns and RPID forms. If a company has three subsidiaries and they each file a separate Personal Property return, then it is possible they could get three separate \$2M deductions.

Q22: Who has the authority to challenge a company concerning the retaining of jobs? For example, if a company is laying people off while they are buying new equipment, can the assessor deny their deduction?

A: Under IC 6-1.1-12.4-6, a county assessor, township assessor, or county auditor may review whether the investment creates or retains jobs. IC 6-1.1-12.4-7 through -10 set forth the procedure, including a hearing and certain notices that must be given. (See Question #11)

Q23: Can a taxpayer claim the Personal Property Investment Deduction on an amended return? Do they have to file an amended return or can they just file the PPID form?

A: Yes, a taxpayer may claim the PPID on a timely filed amended personal property return. A taxpayer can also change the amount of the investment deduction they are requesting by filing a timely amended personal property return. The taxpayer should file both an amended return and the PPID form since the personal property return will be amended to reflect the deduction.

Q24: Can maintenance type items qualify for the investment deduction?

A: The bottom-line answer is always look and see how they are treating the asset/property for federal tax purposes. If they are treating it as an expense (i.e. maintenance), then it probably would not be assessable as depreciable personal property. If, however, it is an enhancement (i.e. it adds value to the current asset), then they should probably treat it as depreciable personal property (it might be difficult to allocate or separate the two amounts).

Q25: Would the 30% floor and the Minimum Value Ratio be applicable to the Personal Property Investment Deduction?

A: Yes, the Investment Deduction (IC 6-1.1-12.4) cross-references to the calculations in IC 6-1.1-12.1 so the 30% floor and the Minimum Value Ratio is applicable to the PPID-1.

Q26: What amount does the taxpayer report in Section 2 of the form, and what if the taxpayer completes Section 3?

A: In Section 2 of the PPID form, the taxpayer reports the total cost of the personal property investment as shown in the "Adjusted Cost" column of Schedule A of their return (see Question #25 if applicable). For the Real Property deduction, the taxpayer reports the total cost of the investment, including all hard and soft costs in Section 2. Section 3 is to be completed by the assessing official. If the taxpayer completes Section 3, the assessing official should verify the calculation. If the assessor changes the calculation, they should report the corrected amount and place their initials next to it.

Q27: Should the Form 104 reflect the gross assessed value or the net assessed value?

A: The Form 104 should reflect the "Final" assessed value, meaning the assessed value after the investment deduction, abatement (if applicable), and the 100% Inventory Deduction are deducted. The assessing official should report to the Auditor's office the gross assessed value and the amount(s) of the deduction(s) by taxpayer either electronically or in paper format (see Question #18).

Q28: Does the taxpayer have to report the investment deduction each year on the Real Property Investment Deduction form?

A: Per Section 25 (a) of the Investment Deduction rule, the property owner must claim the deduction on the RPID form for the first year the deduction is claimed. The assessor may want to establish a “tickler” file to ensure the deduction is calculated for the remaining two (2) years.

Q29: What if the real property assessed value changes as a result of either annual adjustments or an appeal?

A: If the amount of the assessed value is adjusted, the amount of the investment deduction shall be adjusted by the assessor to reflect the percentage change in assessed value.

Q30: A company in our county has multiple locations. If a company meets or exceeds the \$2 million investment deduction for personal property in a county, who determines how the deduction amount will be allocated?

A: The Auditor would be responsible for allocating the deduction, and it should be allocated consistent with where the property is located.

Q31: What is the definition of a “multifamily” facility for the real property deduction? Is it two (2) units or four (4) or more units?

A: Although multifamily is not specifically defined in the rule, it can be implied that it refers to an apartment complex and not a duplex; hence, four or more units would be a natural place to start (see Question #10).

Q32: A taxpayer builds a single or multi-tenant commercial or industrial building which they will not occupy but plan to lease. Is the property eligible for the RPID?

A: Because the tenants that move into the property would create or retain employment, the taxpayer would be eligible for the investment deduction. The jobs created do not necessarily have to be employees of the property owner.

Q33: One of the requirements for obtaining the investment deduction is that there will be an increase in assessed value. Is the increase for the total assessed value or just on the investment?

A: Per IC 6-1.1-12.4-3, it would be determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined. Therefore, it would be based on the purchase of the personal property and not the overall assessed value.

Q34. The deduction is not available to property in an allocation area. Is an allocation area the same as a TIF district?

A. A TIF district is one type of an allocation area. The others include: Airport Development Zones (defined in IC 8-22-3.5); Redevelopment Areas designated by the Redevelopment Commission (defined in IC 36-7-14); Redevelopment Areas designated by the Redevelopment Authority (defined in IC 36-7-14.5); Marion County redevelopment areas designated by the Metropolitan Development Commission (defined in IC 36-7-15.1); Military Base Reuse Areas (defined in IC 36-7-30); and other allocation areas defined by law.